

House Bill 977 (AS PASSED HOUSE AND SENATE)

By: Representatives Knox of the 24<sup>th</sup>, Keen of the 179<sup>th</sup>, and Channell of the 116<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to  
2 provide for legislative intent; to provide an exemption from insurance premium taxes for  
3 certain insurance products; to provide for the Commissioner of Insurance to adopt policies  
4 to promote, approve, and encourage health savings account eligible high deductible plans in  
5 Georgia; to provide for exemptions from certain unfair trade practices for certain wellness  
6 and health promotion programs, condition or disease management programs, health risk  
7 appraisal programs, and similar provisions in such plans; to provide for certain requirements  
8 for such plans; to provide for health reimbursement arrangement only plans that encourage  
9 employer financial support of health insurance or health related expenses under certain  
10 circumstances; to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated,  
11 relating to income taxes, so as to provide for an income tax deduction for high deductible  
12 health plans established and used with a health savings account; to provide for an income tax  
13 credit for certain employers who provide high deductible health plans established and used  
14 with a health savings account; to provide for procedures, conditions, and limitations; to  
15 provide for powers, duties, and authority of the state revenue commissioner with respect to  
16 the foregoing; to provide for related matters; to provide for applicability and effective dates;  
17 to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by  
21 adding a new subsection (c) in Code Section 33-8-4, relating to amount and method of  
22 computing tax on insurance premiums generally, to read as follows:

23 "(c) Insurers shall be exempt from otherwise applicable state premium taxes as provided  
24 for in subsection (a) of this Code section on premiums paid by Georgia residents for high  
25 deductible health plans sold or maintained in connection with a health savings account  
26 under the applicable provisions of Section 223 of the Internal Revenue Code."

**SECTION 2.**

Said title is further amended by adding a new subsection (a.1) in Code Section 33-8-8.2, relating to amount and method of computing local insurance premium taxes on insurance companies other than life insurance companies, to read as follows:

"(a.1) Insurers shall be exempt from otherwise applicable local premium taxes as provided for in subsection (a) of this Code section on premiums paid by Georgia residents for high deductible health plans sold or maintained in connection with a health savings account under the applicable provisions of Section 223 of the Internal Revenue Code."

**SECTION 3.**

Said title is further amended by striking Chapter 51 in its entirety and inserting in lieu thereof a new Chapter 51 to read as follows:

**"CHAPTER 51**

33-51-1.

This chapter shall be known and may be cited as the 'Georgia Affordable HSA Eligible High Deductible Health Plan.'

33-51-2.

It is the intent of the General Assembly:

(1) To authorize the Commissioner to establish flexible guidelines for health savings account eligible high deductible plan designs which will be affordable to Georgians and to increase the availability of these types of plans by accident and sickness insurers licensed to transact such insurance in this state;

(2) To encourage the offering of affordable health savings account eligible high deductible plans, as required under the rules of the federal Internal Revenue Service related to the establishment of health savings accounts, with the specific intent of reaching many otherwise uninsured Georgians and the general intent of creating affordable comprehensive health insurance for all Georgians; and

(3) To enhance the affordability of insurance with the flexible health savings account eligible high deductible plans allowed under this chapter by allowing rewards and incentives for participation in and adherence to health behaviors that recognize the value of the personal responsibility of each citizen to maintain good health, seek preventative care services, and comply with approved treatments.

33-51-3.

(a) The Commissioner shall develop flexible guidelines for coverage and approval of health savings account eligible high deductible plans which are designed to qualify under federal and state requirements as high deductible health plans for use with health savings accounts which comply with federal requirements under the applicable provisions of the federal Internal Revenue Code for high deductible health plans sold in connection with health savings accounts.

(b) The Commissioner shall be authorized to encourage and promote the marketing of health savings account eligible high deductible plans by accident and sickness insurers in this state; provided, however, that nothing in this Code section shall be construed to authorize the sale of insurance in violation of Chapter 3 of this title or interstate sales of insurance.

(c) The Commissioner shall be authorized to conduct a national study of health savings account eligible high deductible plans available in other states and to determine if and how these products serve the uninsured and if they should be made available to Georgians.

(d) The Commissioner shall be authorized to develop an automatic or fast track approval process for health savings account eligible high deductible plans already approved under the laws and regulations of this state or other states.

(e) The Commissioner shall be authorized to promulgate such rules and regulations as he or she deems necessary and appropriate for the design, promotion, and regulation of health savings account eligible high deductible plans, including rules and regulations for the expedited review of standardized policies, advertisements and solicitations, and other matters deemed relevant by the Commissioner.

33-51-4.

Insurers that include and operate wellness and health promotion programs, disease and condition management programs, health risk appraisal programs, and similar provisions in their high deductible health policies in keeping with federal requirements shall not be considered to be engaging in unfair trade practices under Code Section 33-6-4 with respect to references to the practices of illegal inducements, unfair discrimination, and rebating.

33-51-5.

There shall be no required relationship between preferred provider and nonpreferred provider plan reimbursements for health savings account eligible high deductible plans using nonpreferred provider reimbursements. Such plans, however, shall not:

(1) Unfairly deny health benefits for medically necessary covered services;

(2) Have differences in benefit levels payable to preferred providers compared to other providers that unfairly deny benefits for covered services;

(3) Have a plan coinsurance percentage applicable to benefit levels for services provided by nonpreferred providers that is less than 60 percent of the benefit levels under the policy for such services; or

(4) Have an adverse effect on the availability or the quality of services.

33-51-6.

Notwithstanding the provisions of paragraphs (2) and (3) of Code Section 33-51-5, health benefit plans providing incentives for covered persons to use pharmaceutical or dental services of preferred providers shall provide, and clearly indicate, that the payment or reimbursement for a noncontracting provider of covered pharmaceutical or dental services shall be the same as the payment or reimbursement for a preferred provider of covered pharmaceutical or dental services; provided, however, that the health benefit plan shall not be required to make payment or reimbursement in an amount which is greater than the actual fee charged by the provider for such dental or pharmaceutical services."

#### SECTION 4.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding a new paragraph in subsection (a) of Code Section 48-7-27, relating to computation of taxable net income, to read as follows:

"(13.1) An amount equal to 100 percent of the premium paid by the taxpayer during the taxable year for high deductible health plans established and used with a health savings account under the applicable provisions of Section 223 of the Internal Revenue Code to the extent the deduction has not been included in federal adjusted gross income, as defined under the Internal Revenue Code of 1986, and the expenses have not been provided from a health reimbursement arrangement and have not been included in itemized nonbusiness deductions;"

#### SECTION 5.

Said title is further amended by adding a new Code section to read as follows:

"48-7-29.13.

(a) As used in this Code section, the term:

(1) 'Qualified health insurance' means a high deductible health plan that includes, at a minimum, catastrophic health care coverage which is established and used with a health savings account under the applicable provisions of Section 223 of the Internal Revenue Code.

(2) 'Qualified health insurance expense' means the expenditure of funds of at least \$250.00 annually for health insurance premiums for qualified health insurance.

(3) 'Taxpayer' means an employer who employs directly, or who pays compensation to individuals whose compensation is reported on Form 1099, 50 or fewer persons and for whom the taxpayer provides high deductible health plans that include, at a minimum, catastrophic health care coverage which are established and used with a health savings account under the applicable provisions of Section 223 of the Internal Revenue Code and in which such employees are enrolled.

(b) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20 or 48-7-21, as applicable, for qualified health insurance expenses in an amount of \$250.00 for each employee enrolled for twelve consecutive months in a qualified health insurance plan if such qualified health insurance is made available to all of the employees and compensated individuals of the employer pursuant to the applicable provisions of Section 125 of the Internal Revenue Code.

(c) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the taxpayer against succeeding years' tax liability. No such credit shall be allowed the taxpayer against prior years' tax liability.

(d) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section.

(e) The credit allowed by this Code section shall apply only with regard to qualified health insurance expenses."

## **SECTION 6.**

(a) Sections 1, 4, and 5 of this Act shall become effective on January 1, 2009, and shall be applicable to all taxable years beginning on or after January 1, 2009. The remaining sections of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

(b) Section 2 of this Act shall expire on January 1, 2015, unless the General Assembly acts to extend these provisions.

## **SECTION 7.**

All laws and parts of laws in conflict with this Act are repealed.